POLICE BRUTALITY IN INDIA: ITS IMPACT ON INDIVIDUALS AND THEIR RIGHTS

Hiral Vora[1]

I. ABSTRACT

Police brutality in India is a pressing issue that reflects a systemic failure within the Indian police system. This dissertation delves into the pervasive nature of police misconduct, including illegal detentions, abuse, and torture, highlighting that these practices are not isolated incidents but deeply ingrained within the system. It emphasizes that addressing police brutality requires more than just attributing it to a few "bad apples" but necessitates comprehensive reform of the entire system. Beyond the immediate physical harm caused, police brutality violates fundamental human rights and erodes trust between law enforcement and the public. The dissertation aims to investigate instances of police brutality, analyze accountability mechanisms, and recommend ways to prevent violations and enhance police accountability. Research questions explore the influence of race and ethnicity on experiences of police brutality, the impacts on victims, legal remedies available, societal consequences, effectiveness of training and policies, and international approaches to addressing this issue. The hypothesis posits that police brutality negatively affects individuals, violating their rights and fostering fear and mistrust. Through a quantitative methodology involving literature analysis and media reports, this study seeks to provide insights into the complex dynamics of police brutality in India.

II. KEYWORDS:

Police Brutality, Human Rights Violation, Custodial Violence, Accountability Mechanisms, Police Reforms

[1] Semester 10 Student at United world School of Law, Karnavati University.

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III. CHAPTER 1

A. INTRODUCTION

Police Brutality refers to the misuse or abuse of power by police officers. It involves various forms of misconduct and mistreatment by police officers towards individuals or communities. This misconduct can include both physical and verbal harassment, where officers may use excessive force or engage in aggressive behaviour towards civilians.[2] According to the author of the paper "Police Brutality in India: Challenges and Proposed Reforms" physical harassment can range from unnecessary, unwanted and violent physical contact, such as beatings or chokeholds, or the use of weapons like batons or tasers.[3] In the same paper, the author states that verbal harassment can involve the use of derogatory language, threats or intimidation by police officers towards individuals.[4] Police brutality can also extend to property damage, where officers may intentionally damage or destroy personal property without justification.[5] Additionally, police brutality can manifest as inaction in certain cases, where officers fail to intervene or take appropriate action when witnessing or being aware of misconduct or criminal behaviour by their colleagues.[6] This inaction can contribute to a culture of impunity and enable further abuse within law enforcement agencies.

The roots of police brutality in India run deep, stemming from a legacy of colonial policing practices. During the British colonial rule in India, the police forces were established to maintain law and order and protect the interests of the British rulers.[7] The establishment of the police forces under British rule laid the foundation for the conflict between the police and the public. The British police forces were primarily focused on maintaining control and suppressing any form of dissent or resistance against the colonial rule. This approach often led to the use of excessive force and

[2] Ritu Bhaskar, *Police Brutality in India: Challenges and Proposed Reform,* PENACCLAIMS (2020), https://www.penacclaims.com
[3] *Id.*
[4] *Id.*
[5] Karan Dutt (Ed), *An Analysis of Police Brutality in Law Enforcement in India*, JUDICATEME (2021), https://judicateme.com/an-analysis-of-police-brutality-in-law-enforcement-in-india-2/
[6] *Id.*
[7] *Id.*

brutality by the police against the Indian population.[8] The oppressive nature of the British police forces created a deep-rooted mistrust and resentment among the Indian public towards the police[9]. The recurring nature of police brutality suggests that it is not an isolated incident but a systemic issue deeply ingrained within the police system. The persistence of police brutality indicates a failure of accountability mechanisms and a lack of effective measures to prevent and address such incidents[10].

The term "systemic failure" refers to a failure or breakdown in the overall functioning of a system, in this case, the Indian police system. The Indian police system is characterized by illegal detentions, abuse, and torture, indicating that these practices are not limited to a few individuals but are widespread and ingrained within the system[11]. These patterns of illegal detentions, abuse, and torture are indicative of a larger problem within the Indian police system, which is failing to prevent or address these issues effectively. This systemic failure implies that the problem cannot be attributed solely to the actions of a few "bad apples" but rather requires a comprehensive examination and reform of the entire system[12].

Police brutality has severe consequences beyond the immediate physical harm it causes. It violates the fundamental right to life, which is a basic human right protected by the law[13]. When police officers abuse their power and engage in acts of brutality, they are essentially disregarding the value and sanctity of human life. It not only has immediate physical and psychological consequences for the victims but also has broader societal implications. One of the major consequences is the erosion of trust between the police and the public[14]. When citizens witness or experience police brutality, it undermines their confidence in the police force and their ability to protect

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[8] Liat Levanon, *The Law of Police Entrapment: Critical Evaluation and Police Evaluation*, CRIMINAL LAW FORUM (2016), https://bura.brunel.ac.uk/handle/2438/18490

[9] *Id.* at 01

[10] Oviya Kumar, *The Surge of Police Brutality in India*, 30 SUPREMO AMICUS (2022), https://www.supremoamicus.org

[11] Vandhana R, *The Anatomy of Police Brutality in India*, PROJECT STATECRAFT (2020), https://www.projectstatecraft.org/post/the-anatomy-of-police-brutality-in-india

[12] Dutt, supra note 4, at 1

[13] Gregory Walters & Richard Feist, *Police Brutality and Human Rights: A Dialogue,* 62(2) SCIENCE ET ESPRIT (2010), https://www.researchgate.net

[14] Karan Dutt (Ed), *An Analysis of Police Brutality in Law Enforcement in India*, JUDICATEME (2021), https://judicateme.com/an-analysis-of-police-brutality-in-law-enforcement-in-india-2/

and serve the community.[15] This loss of trust can have far-reaching effects on the relationship between law enforcement and the public. The erosion of trust caused by police brutality can have long-lasting effects on the stability and harmony of society. When people no longer trust the police to uphold justice and protect their rights, it can lead to a breakdown in social order[16]. This can result in increased tension, fear, and hostility between different segments of society. It can also discourage people from seeking help from the police or cooperating with law enforcement, which can hinder the effectiveness of crime prevention and investigation efforts[17].

Police brutality often disproportionately affects marginalized communities, such as racial and ethnic minorities, low-income individuals, and those living in disadvantaged neighbourhoods.[18] These communities already face systemic inequalities and discrimination, and the experience of police brutality further exacerbates their marginalization. It reinforces existing power imbalances and perpetuates a cycle of mistrust and fear within these communities. Police brutality is not only a violation of individual rights, but it also undermines the principles of human rights and democracy[19].

In India, police officers sometimes take on the role of the judiciary by deciding the guilt and innocence of a suspect or undertrial while they are in police custody. This means that police officers may act as judges and pass judgements on individuals without proper legal procedures or due process. The main reason for infringement of rights during police duty is the lack of accountability of the police. They are not held responsible or answerable for their actions, even if they violate the rights of individuals. In a democratic society, the police are entrusted with the responsibility to protect and uphold the rights of all citizens. When they engage in acts of brutality, it

[15] Anurag Verma, *A Heavy Hand: The Use of Force by India's Police*, 3 SMALL ARMS SURVEY ISSUE BRIEF (2012), https://www.files.ethz.ch/isn/151470/IAVA-IB3-A-Heavy-Hand.pdf
[16] *Id.* at 2
[17] *Id.* at 2
[18] Husain Dalwai & Sameena Dalwai, *Police Brutality Against Vulnerable Demands a George Floyd Moment in India*' THE INDIAN EXPRESS (Dec 20, 2023, 04:30 PM)
[19] Gregory Walters & Richard Feist, *Police Brutality and Human Rights: A Dialogue,* 62(2) SCIENCE ET ESPRIT (2010), https://www.researchgate.net

undermines the very foundation of democracy and the rule of law.[20] It sends a message that those in power can act with impunity and disregard the rights and dignity of individuals.[21]

According to the National Crime Records Bureau (NCRB), a total of 2005 cases were registered against police personnel in India for human rights violations in 2023[22]. Out of which 1000 cases resulted in chargesheets being filed against the accused police officers. Additionally, 48 police personnel were charge-sheeted and 3 were convicted in cases of human rights violation[23].

The need for comprehensive reforms in policing practices is fundamental to address the systemic issue of police brutality in India.[24] The implementation of stringent regulations, oversight mechanisms, and accountability frameworks are imperative to curb the misuse of power by law enforcement agencies[25]. Furthermore, public awareness campaigns and educational programs aimed at informing individuals about their rights and legal recourse in instances of police brutality are essential steps towards fostering greater awareness and accountability.

Efforts to combat police brutality require the active involvement of civil society, legal experts, and policymakers to drive meaningful change in the existing legal and law enforcement framework[26]. It is essential to prioritize the protection of individuals' rights and ensure that law enforcement agencies function within the boundaries of the law, respecting the dignity and liberties of every citizen.

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[20] Ralph Crawshaw, Stuart Cullen & Tom Williamson, *Human Rights and Policing*, BRILL (2007), https://brill.com/display/title/13169

[21] *Broken System: Dysfunction, Abuse, and Impunity in the Indian Police*, Human Rights Watch, (Dec 20, 2023, 05:11 PM), http://www.hrw.org/sites/default/files/reports/india0809web.pdf

[22] *Crime in India Report 2023*, National Crime Records Bureau, New Delhi, https://ncrb.gov.in/en (last visited Dec 20, 2023)

[23] *Id.* at 3

[24] Ritu Bhaskar, *Police Brutality in India: Challenges and Proposed Reform,* PENACCLAIMS (2020), https://www.penacclaims.com

[25] *Id.*

[26] Sourav Suman, *The Police Brutality in India: A Critical Analysis*, 6(5) IJLDAI (2020), https://thelawbrigade.com/wp-content/uploads/2020/08/Sourav-Suman-IJLDAI.pdf

B. RESEARCH OBJECTIVES

1. To investigate instances of police brutality and infringement of human rights and to understand the impact of such violations on individuals.
2. To analyze the mechanisms for holding police officers responsible for misconduct and to evaluate the effectiveness of such existing accountability measures.
3. To recommend ways to prevent grave violations by police and to enhance police accountability.

C. LITERATURE REVIEW

1. Ganapati Tarase, 'A Study of Human Rights Violation by Police in India' (2010) International Journal of Criminology and Sociological Theory 3(2) 401-418

The author of this paper examines human rights violations by the police in India. He discusses the efforts made by organisations such as the National Crime Record Bureau and the National Human Rights Commission to gather information on cases of police excesses, including illegal detentions, fake encounters, extortion, and torture. He presents statistics on human rights violations by the police, with Chhattisgarh reporting the highest number of cases. He also mentions a report by the Asian Centre for Human Rights, which states that an estimated 1,184 persons were killed in police custody in India between April 2001 and March 2009. The author highlights the lack of accountability of the police as a major issue contributing to police violence. He mentions a Supreme Court judgment that ordered police reform to increase police accountability. The author also discusses the prevalence of fake police encounters in India, with roughly every second police encounter being fake according to official data. The author through this study aims to understand the causes behind such incidents and evaluate the effectiveness of existing laws in preventing police human rights violations. The author also examines the role and limitations of human rights commissions in holding the police accountable for misconduct. He discusses the achievements and shortcomings of the

National Human Rights Commission, including its dependence on the government for resources and its inability to inquire into complaints against members of the armed forces. The author in the end concludes by acknowledging the role of human rights commissions as a check on police misconduct but highlights the need for stronger enforcement powers.

2. **Satyam Chaudhary, 'Police Brutality- An Infringement of Human Rights in India' (2020) International Journal of Creative Research Thoughts 8 1028-1033**

The author of this paper discusses the existing police system in India and the need for police reform to prevent the violation of human rights. He highlights the problems faced by citizens in filing complaints against the police and the accountability of the police during the infringement of human rights. The extent of police brutality in India is discussed, with the paper stating that it is perhaps the highest across the world. He mentions that suspects and detainees in police custody are subjected to physical and psychological torture. The author also mentions the immunity given to the police from accountability under Section 197 of the CrPC. Amnesty International's annual report is referenced, which states that various forms of torture, including rape, grievous hurt, ill-treatment, and false imprisonment, are being perpetrated by the police in India.

3. **Ritu Bhaskar, 'Police Brutality in India: Challenges and Proposal for Reform' (2020) Pen Acclaims, IIL Indore 12**

The author of this paper highlights the need for comprehensive police reform in India, as the current police system is outdated and inefficient. The Police Act of 1861, drafted by the British, still governs the police in India, which is inadequate for the present-day challenges. The administration of criminal law in India is governed by the 1973 Code of Criminal Procedure, which complements the Indian Penal Code of 1860. The political leaders in India have the power to control and direct the police forces, but this power has been abused, leading to misuse of police forces for personal and political reasons.

The increasing incidents of police brutality in India, such as in Tamil Nadu, have raised concerns about the reputation and image of public servants. The author includes a comprehensive analysis of field interviews with police officers and citizens, to understand the current situation.

4. **Saurav Suman, 'The Police Brutality in India: A Critical Analysis' (2020) International Journal of Legal Developments and Allied Issues 6(5) 34-43**

The author of this paper focuses on the phenomenon of police brutality in India and the laws and resolutions that govern the police. He also examines the reasons why the judiciary has been ineffective in curbing this unlawful policing culture. The author aims to understand the extent of police accountability and the need for separate acts or provisions defining the liability of criminal acts by the police. He suggests that lower courts should be given jurisdiction to try police brutality cases, in addition to the Supreme Court and High Courts. This would help in providing justice and reducing the burden on higher courts. The author highlights the need for effective changes in legislation to address police brutality and emphasizes the importance of public and criminal laws in filing cases against the police. He further concludes by suggesting that an unerring rule of law can be established by framing separate acts or provisions to define the extent and liability of criminal acts by the police. He also calls for the judiciary and the government to take action to curb this state of lawlessness and establish peace and tranquility.

5. **Arshiya Singh, 'Custodial Torture and the Need for Comprehensive Police Reforms' (2021) Social and Political Research Foundation**

The author of this paper highlights the prevalence of custodial torture and deaths in India, with an average of 1800 deaths in police custody each year between 2016-2018. He emphasized on the lack of sensitization and human rights education among police personnel, as well as the absence of policies and laws to hold police officers accountable for custodial violence. The author further mentions the bias and discrimination faced by marginalized

communities at the hands of the police, further exacerbating the issue. He discusses the discrepancy in data recorded by the National Crime Records Bureau (NCRB) and the National Human Rights Commission (NHRC), making it challenging to assess the extent of custodial violence. The author of this paper highlights the need for effective legislation against custodial violence and torture, including the ratification of the United Nations Convention Against Torture (UNCAT). He mentions the introduction of The Prevention of Torture Bill in 2010 and 2017, which aimed to criminalize torture by public servants and address custodial violence. He acknowledges the reluctance of governments at all levels to address custodial torture and the dismissal of calls for implementation of recommendations and enactment of the 2017 Bill by the Supreme Court. He also mentions the misuse of certain sections of the Criminal Procedure Code (CrPC) and the Evidence Act, which do not adequately address incidents of lethal torture.

D. RESEARCH GAPS

- Most of the papers does not explore the role of civil society, independent judiciary, and media in addressing police brutality and ensuring accountability.
- Most of the Paper does not explore the perspectives and experiences of marginalized communities, such as Dalits and religious minorities, who are often disproportionately affected by police brutality.
- There is a lack of research on underlying causes and systemic issues that contribute to police violence and brutality in India, such as lack of training, accountability, and oversight mechanisms.
- Most of the papers does not provide a comprehensive analysis of the effectiveness of police accountability measures in India, such as the impact of constitutional provisions and criminal procedure code provisions on actual police behavior and human rights outcomes.

- There is a lack of research on the role of technology in documenting and addressing the incidents of police brutality, and the impact it will have on accountability and transparency.

E. RESEARCH QUESTIONS

1. To what extent does the race and ethnicity of individuals influence their likelihood of experiencing police brutality, and how does it impact their perception of their rights and safety?
2. What are the short-term and long-term physical and psychological impacts of police brutality on victims?
3. What legal mechanisms and remedies are available to victims of police brutality, and how effective are these in protecting individuals' rights and ensuring the accountability of police officers?
4. What are the societal and community-level consequences of police brutality, including its impact on trust in law enforcement and community cohesion?
5. To what extent do specific police training, policies and community policing initiatives contribute to reducing incidents of police brutality?
6. How do different countries approach the issue of police brutality, and what can be learned from those practices in addressing this problem?

F. HYPOTHESIS

Police Brutality negatively impacts individuals and violates their fundamental rights. It creates an atmosphere of fear and mistrust between law enforcement and the public. These incidents have a significant impact on the physical and mental health of the victims.

G. RESEARCH METHODOLOGY

This Paper uses qualitative methods such as analysis of academic literature, media reports, articles and documentaries to gain in-depth insights into the experience of individuals affected by police brutality and the societal impact of such incidents. The

author analyses laws, conventions, human rights reports, court judgements, and official documents to provide insight into the legal and institutional framework related to police brutality in India and to assess their effectiveness.

IV. CHAPTER 2

A. TYPES OF POLICE BRUTALITY

1. Torture

The term "torture" has not been defined in the Constitution or any penal law. However, the Convention against Torture defines it as the infliction of severe pain or suffering on a human being by another human being who is acting in an official capacity.[27] Torture is essentially a problem of criminal law, and many countries have enacted laws against custodial violence and the use of third-degree methods.[28]

In the case of Niranjan Singh[29], the Supreme Court lamented that "the police instead of being the protector of law have become the engineer of terror and panic the people into fear".[30]

2. Unlawful Detention

Detention refers to the deprivation of personal liberty except as a result of conviction for an offense, while imprisonment refers to the deprivation of personal liberty as a result of a conviction for an offence[31].

A detention that is lawful under national law may still be considered arbitrary under international standards if the law under which the person is detained is vague or violates other fundamental standards such as the right to freedom of expression. Illegal detention beyond the period permitted by law is extremely common and may be frequently coupled with physical assault[32].

3. Police Encounters

[27] Shaswat Adhikari, *Police Atrocities & Human Rights,* RESEARCHGATE (Mar 24, 2020, 10:14 AM), https://www.researchgate.net/publication/360929418
[28] Id.
[29] Niranjan Singh v. Prabhakar Rajaram, AIR 1980 SC 785
[30] Sunil Kuksal, *Repression, Despair and Hope,* PEOPLE'S VIGILANCE COMMITTEE ON HUMAN RIGHTS (Dec 24, 2013, 12:16 PM), https://www.academia.edu/8655001/Repression_despair_and_hope
[31] N. KKishna Kumar, Human Rights Violation in Police Custody, SCHOOL OF LEGAL STUDIES, COCHIN UNIVERSITY OF SCIENCE AND TECHNOLOGY (2013), https://dyuthi.cusat.ac.in/xmlui/bitstream/handle/purl/927/dyuthi-t0127.pdf
[32] Id.

Police encounters are another area where the police commit glaring human rights violations by way of atrocities and arbitrary killing against persons.[33] Generally, the so-called encounter is justified by the police on the ground of self-defense. However, police have been given the power to shoot, but it is subject to restrictions, limitations, and circumstances.[34] They cannot kill a person under their custody. Encounters are a gruesome act that violates human rights in general and the fundamental rights enshrined in the Constitution of India in particular. Article 21 of the Indian Constitution state that no person shall be deprived of his life and liberty, respectively, except according to the procedure established by the law.[35]

4. Custodial Violence

Custodial violence refers to the use of force or violence by law enforcement officials against individuals who are in their custody. It can take many forms, including physical, psychological, and sexual abuse. Most of those who die in police custody are criminal suspects who are tortured in order to extract confessions or information.[36] It requires the highest protection from all quarters, as it is a crucial violation of citizens' rights if someone dies in police custody.[37] Custodial death is perhaps one of the worst crimes in a civilized society governed by the rule of law.[38]

5. Use of Excessive Force

It involves an officer using more force than necessary to subdue an individual, even if the individual is fully cooperating. Police officers are required to use the least aggressive methods first and only escalate their use of force when the individual they are in contact with is not cooperating in resolving the situation.

[33] Adhikari, *supra* note 26.
[34] Adhikari, *supra* note 26, at 10.
[35] INDIA CONST. art. 21.
[36] N. KKishna Kumar, Human Rights Violation in Police Custody, SCHOOL OF LEGAL STUDIES, COCHIN UNIVERSITY OF SCIENCE AND TECHNOLOGY (2013), https://dyuthi.cusat.ac.in/xmlui/bitstream/handle/purl/927/dyuthi-t0127.pdf
[37] Id.
[38] Subhashini Parihar, *What is Custodial Violence in India? Its Type, Causes and Laws Against It?* WRITING LAW (Dec 23, 2023, 06:45 PM), https://www.writinglaw.com

The use of tasers, chokeholds, and batons are not first-step solutions and should only be used when necessary.

B. CASES REGISTERED AGAINST POLICE PERSONNEL

As per the recent data provided on 01.02.2024 by the National Human Rights Commission, the cases registered against police personnel are as follows:[39]

S.R. NO	NATURE OF INCIDENT	NO OF CASES REGISTERED
1	Custodial Death (police)	11
23	Custodial Death (Judicial)	171
4	Death in Police Encounter	08
5	Against SC/ST/OBC	33
6	Women	173

Source: Monthly Statistics of Cases Registered by NHRC in January 2024

According to the Annual Report on Torture 2020 published by a human rights group, there were total of 1731 deaths recorded in 2020, out of which 1606 occurred in judicial custody and 125 deaths reportedly occurred in police custody.[40]

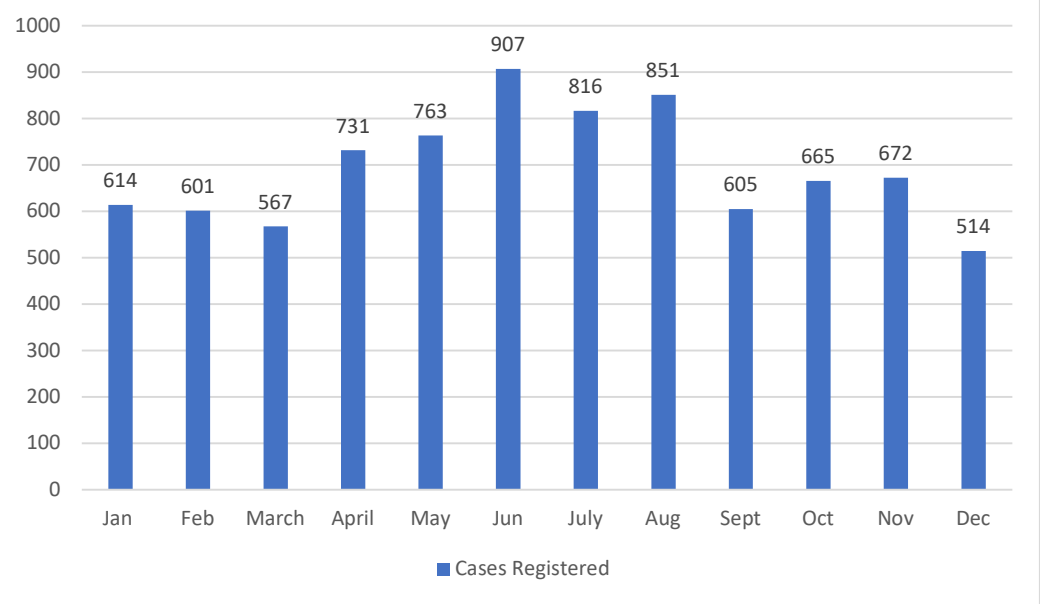
The report also mentions that on an average five custodial deaths happen every single day in India[41].

According to Paritosh Chakma, director of the National Campaign Against Torture, some of the methods of torture employed includes branding with hot iron rod, kicking

[39] National Human Rights Commission. (2024). Monthly Statistics of Cases Registered by NHRC in January 2024, https://nhrc.nic.in/complaints/human-right-case-statistics.
[40] Oviya Kumar, *The Surge of Police Brutality in India*, 30 SUPREMO AMICUS (2022), https://www.supremoamicus.org
[41] Id.

pregnant women in the abdomen, electric shocks, hitting iron nails into the body and hitting private areas.[42]

The graph below shows no. of cases against police officers who were eventually convicted of police brutality in every month of 2023[43].



C. CASE STUDY ANALYSIS

In order to understand the underlying causes of police brutality in India, it is crucial to examine the individual cases of police brutality, identifying common patterns and trends, and exploring the underlying factors that contribute to the problem.

One of the key challenges in conducting a case study analysis of police brutality in India is the lack of reliable data. While there are some official statistics available on the number of cases of police brutality, these figures are often incomplete and unreliable. In addition, many cases of police brutality go unreported, making it difficult to get an accurate picture of the scale of the problem.

[42] Id.
[43] National Human Rights Commission, (2023) Retrieved from http://www.uncat.org/in-media/five-custodial-deaths-in-india-daily/

Despite these challenges, there have been some notable efforts to document cases of police brutality in India. For example, the National Human Rights Commission (NHRC) has established a system for receiving complaints of police brutality and investigating them[44]. Similarly, several non-governmental organizations (NGOs) have conducted their own investigations into cases of police brutality and have published reports documenting their finding[45]. The cases discussed hereinafter shed light on various instances of police misconduct, abuse of position of power, and human rights breaches. It exposes systematic failures, human rights breaches, and the need for comprehensive changes to address the issue of police misconduct, accountability, and citizen rights.

V. CASE OF D.K. BASU VS STATE OF WEST BENGAL[46]

This is a landmark case in India that has had a significant impact on the rights of individuals in police custody. The case was taken by the Supreme Court of India in 1996 and dealt with the issue of custodial torture and deaths in police custody.

A. FACTS OF THE CASE:

The petitioner, D.K. Basu, was the executive chairman of Legal Aid Services in West Bengal, a non-political organization. In 1986, he addressed a letter to the Supreme Court of India calling attention to certain news published in the Telegraph Newspaper about deaths in police custody.[47] He requested the letter be treated as a writ petition within the "Public Interest Litigation".[48] Considering the seriousness of the issues raised in the letter, the Supreme Court treated it as a petition and notified the Defendants. While the writ petition was being considered, Mr. Ashok Kumar Johri addressed a letter to the Chief Justice of the Supreme Court calling his attention to the death of Mahesh Bihari from Aligarh in police custody.[49] The same letter was also

[44] Sourav Suman, *The Police Brutality in India: A Critical Analysis*, 6(5) IJLDAI (2020), https://thelawbrigade.com/wp-content/uploads/2020/08/Sourav-Suman-IJLDAI.pdf
[45] Diljinder Singh & Shailja Thakur, *Police Brutality in India: A Critical Analysis from a Human Rights Perspective*, 11(11) IJCRT (2023), https://ijcrt.org/papers/IJCRT2311447.pdf
[46] D.K. Basu v. State of West Bengal AIR 1997 SC 610
[47] Abhishek Kumar, *D.K. Basu vs. State of Bengal*, LAW TIMES JOURNAL, (Jan 07, 2024, 02:54 PM), https://lawtimesjournal.in/d-k-basu-vs-state-of-west-bengal/
[48] Ibid.
[49] Ibid.

treated as a request for writing and was included along with D.K. Basu's request for writing.[50] On 14 August 1987, the court gave the order for issuing notices to all state governments, including a notice to the Law Commission requesting appropriate suggestions within two months.[51] In response to the notification, several states submitted affidavits, including West Bengal, Orissa, Assam, Himachal Pradesh, Haryana, Tamil Nadu, Meghalaya, Maharashtra, and Manipur.

B. JUDGEMENT:

In this case, the Supreme Court of India held that the right to life and personal liberty under Article 21 of Indian Constitution include the right to live with dignity, free from torture and cruel, inhumane or degrading treatment. The court also laid down a number of guidelines to be followed by the police during arrest and detention, including the requirement that the police inform the arrestee of their right to have someone informed of their arrest and the right to consult a lawyer of their choice.[52] The court also held that the police must prepare a memo of arrest at the time of arrest, which should be attested by at least one witness who may be either a member of the family of the arrestee or a respectable person of the locality from where the arrest is made.[53] The memo should also be countersigned by the arrestee, and a copy of the memo should be given to the arrestee or a member of their family.[54]

C. ANALYSIS:

Before the case of DK Basu v. State of West Bengal, custodial violence and death were not unusual and even though compensation was occasionally awarded, there were no precise provisions or rules to hold parties liable for such incidents.[55] This case emerged as a vital response to tackle the pressing issue of custodial deaths and violence.[56] It made the foundation of holding the police accountable for their actions while the

[50] Ibid.
[51] 'Case Summary: D.K. Basu vs. The State of West Bengal' LAWJURE, (Jan 07, 2024, 03:05 PM), https://www.lawjure.in/case-summar-d-k-basu-vs-state-of-west-bengal/
[52] Archa Baburaj, *Can International Human Rights Instruments Prevent Police Torture in Kerala?* FACULTY OF LAW, LUND UNIVERSITY (2022), https://lup.lub.lu.se/luur/
[53] Id.
[54] Id.
[55] *D. K. Basu v. State of West Bengal,* LAW BHOOMI (Jan 07, 2024, 03:16 PM) https://lawbhoomi.com/dk-basu-vs-state-of-west-bengal
[56] Id.

accused is in custody. While there has been a drop in custodial deaths and violence following this case, it has not been completely eradicated. Some of the guidelines defined in the case remain more of theoretic regulations on paper and not consistently enforced practices in reality.[57]

VI. JAWAHARLAL NEHRU UNIVERSITY PROTESTS (2020)[58]

On January 5, 2020, a group of masked individuals entered the Jawaharlal Nehru University (JNU) campus and attacked students and teachers, injuring more than 30 people. The Delhi police were criticized for their failure to intervene and protect the students during the attack.

According to witnesses, the attackers, who were allegedly supporters of the ruling party (BJP), were allowed to enter the campus by the police, who then failed to intervene as the violence unfolded[59]. This inaction was in stark contrast to the police's use of excessive force against demonstrators in other instances. The Police's delayed response to the attack and their failure to detain or question the assailants raised serious concerns about their handling of the situation. Students at JNU accused the police of using excessive force against them and their failure to ensure the student's safety during the attack.

The JNU attack and the subsequent allegations of police brutality highlighted the deepening tensions and polarization within Indian Society. The Incident also raised questions about the role of the police in upholding the safety and security of citizens, particularly in the context of protests.

A. IMPACT ON THE INDIVIDUALS AND THEIR RIGHTS:

The failure of the police to protect the students and staff from the violent attack in this case, led to physical and emotional trauma among the victims. More than 30 students

[57] Id.
[58] *India: Police Fail to Protect Students*, HUMAN RIGHTS WATCH (Jan 07, 2024, 05:03 PM), https://www.hrw.org/news/2020/01/07/india-police-fail-protect-students
[59] Vedika Sud & Tara John, *Delhi Police Criticized After Students Attacked at Top University,* CNN (Jan 07, 2020, 11:20 AM), https://edition.cnn.com/2020/01/06/india/india-mob-attack-jnu-intl/index.html

and staff were injured in the violence, with some suffering severe injuries[60]. The inaction of the police, despite being informed about the attack, further exacerbated the sense of vulnerability and betrayal among the targeted individuals[61].

This incident also raised concerns about the right to peaceful protest and academic freedom in India. Students and teachers, who were peacefully demonstrating against a fee hike, were subjected to a violent attack, allegedly by individuals affiliated with a student organization linked to the ruling party[62]. The attack coupled with the alleged police inaction, contributed to a climax of fear and unease among students and activists, highlighting the challenges facing the exercise of democratic rights and civil liberties in the countries.[63]

VII. TUTICORIN CUSTODIAL DEATH (2020)[64]

The Tuticorin custodial death case of 2020 was a tragic incident that highlighted the prevalence of police brutality and the lack of accountability in such cases in India. On June 19, 2020, P. Jayaraj (59 years old) and his son J. Bennicks (31 years old) were picked up for questioning by the Tamil Nadu Police in Tuticorin's Sathankulam for allegedly violating lockdown rules.[65] Bennicks fell ill on June 22, 2020, and was moved to the Kovilpatti General Hospital, where he died later that day. The following day, his father also died. The CBI report revealed that the father-son duo was subjected to brutal torture by the accused police officials. The forensic report also confirmed that the victims had 18 injuries, some of which were of a serious nature. The case received intense political attention, with Tamil Nadu Chief Minister Edappadi K Palaniswami directing the probe into the deaths to be conducted by the Central Bureau of

[60] Billy Perrigo & Sameer Yasir, *The Police Did Nothing: Students in India are Protesting After a Masked Mob Violently Attacked a Top University of Delhi*, TIME (Jan 07, 2020, 10:12 AM), https://time.com/5760593/jnu-attack-student-protests/
[61] *India: Police Fail to Protect Students*, Human Rights Watch (Jan 08, 2024, 11:02 AM), https://www.hrw.org/news/2020/01/07/india-police-fail-protect-students.
[62] Id.
[63] Vedika Sud & Tara John, *Delhi Police Criticized After Students Attacked at Top University,* CNN (Jan 07, 2020, 11:20 AM), https://edition.cnn.com/2020/01/06/india/india-mob-attack-jnu-intl/index.html
[64] The Registrar (Judicial), Madurai Bench of Madras High Court vs. The State of Tamil Nadu and Ors, MANU/TN/3641/2020
[65] *Custodial Death of P Jayaraj and Bennicks*, SCHOLARLY ENCYCLOPEDIA (Jan 08, 2024, 12: 56 PM), https://encyclopedia.pub/entry/30151

Investigation (CBI). The incident sparked widespread outrage across the state, with the hashtag #JusticeForJayarajAndFenix becoming a top trend on Twitter. People across Tamil Nadu condemned the alleged police brutality and demanded justice for the two victims.

A. ACTION TAKEN AGAINST THE ACCUSED POLICE OFFICERS:

The police officers allegedly involved in the custodial deaths of P. Jayaraj and J. Bennicks in Tamil Nadu have faced legal consequences. The Supreme Court of India refused to grant bail to the accused police officers, P. Raghu Ganesh and S. Sridhar, who were stationed at the Sathankulam police station where the deaths occurred. The Central Bureau of Investigation (CBI) charged nine police personnel, including inspectors, sub-inspectors, and constables, in connection with the case. The accused officers face charges of murder and have been denied bail by the Supreme Court[66]. Additionally, a former police inspector, S. Sridhar, who is one of the accused, has alleged that he is getting threats to his life from other accused in jail, as he claims to possess information about the case.[67][68] The case has sparked public outrage and demands for justice, with over 1,000 people protesting against police brutality in the state. The custodial deaths of P. Jayaraj and J. Bennicks have led to significant legal and public scrutiny, highlighting the need for accountability and justice in cases of police brutality and custodial deaths.

B. THE IMPACT OF THIS INCIDENT:

The victims suffered brutal torture which led to their deaths in police custody and their families and loved ones were left to grieve and cope with the trauma of losing their loved ones in such a manner.

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[66] Uma Sudhir, *No Bail for Cops Accused In Tamil Nadu Custodial Death: Supreme Court*, NDTV (Sept 07, 2021, 02:09 PM), https://www.ndtv.com/india-news/no-bail-for-cops-accused-in-tamil-nadu-custodial-deaths-case-says-supreme-court-2532994

[67] Akshaya Nath, *They are Plotting to Kill me: Ex-Cop Alleges Threat from Other Accused in Custodial Death Case*, INDIA TODAY (May 03, 2022, 10:13 AM), https://www.indiatoday.in/india/story/tamil-nadu-custodial-death-case-jayaraj-bennix-former-cop-death-threats-jail-truth-madras-high-court-1944948-2022-05-03

[68] Shalini Lobo, *Tuticorin Custodial Case: Inspector Arrested, Murder Charges Filed Against Sathankulam Cops*, INDIA TODAY (July 02, 2020, 11:45 AM), https://www.indiatoday.in/india/story/tuticorin-custodial-case-inspector-arrested-murder-charges-filed-against-sathankulam-cops-1695991-2020-07-01

The incident sparked widespread outrage across the state, with the hashtag #JusticeForJayarajAndFenix becoming a top trend on Twitter. People across Tamil Nadu condemned the alleged police brutality and demanded justice for the two victims.[69] The accused police officers, P. Raghu Ganesh and S. Sridhar, have faced legal consequences, with the Supreme Court of India refusing to grant them bail.

VIII. PILIBHIT ENCOUNTER 1991

The Pilibhit Encounter of 1991 was a very controversial incident that involved the Police Department of Uttar Pradesh. On September 23, 1991, a group of police officers encountered some alleged dacoits in the Pilibhit district. The police claimed that they were responding to information received by them about the presence of criminals in that region. This led to the brutal fake encounter in which 10-11 young Sikh men lost their lives[70]. The encounter quickly drew scrutiny as allegations of extrajudicial and encounter killings emerged. The term "encounter killing" is often used to describe extrajudicial killings by police in self-defense when they encounter suspected criminals or terrorists. Critics contended that the encounter was staged, and the people killed were not dacoits but innocent civilians.[71] This controversy regarding the Pilibhit Encounter prompted inquiries and legal proceedings. Whereas a few police officers were at first charged, the legal process was faced with delays and challenges. This incident highlighted the broader issue of police impunity and the requirement for accountability in law enforcement.

The Allahabad High Court in 2022 convicted 43 police officers for the extrajudicial killing of 10 individuals in the Pilibhit Encounter[72]. This verdict reinforces the long-standing concerns about extrajudicial killings and the need for accountability in law enforcement. The court's decision was a significant milestone in the interest of justice

[69] Id.
[70] Sparsh Upadhyay, *Pilibhit 'Fake' Encounter 1991| Police Can't Kill Accused Merely Because He Is A Dreaded Criminal: Allahabad High Court*, LIVE LAW (Dec 15, 2022, 09:11 PM), https://www.livelaw.in/news-updates/allahabad-high-court-pilibhit-fake-encounter1991-police-cant-kill-accused-dreaded-criminal-216843
[71] Id.
[72] Id.

for the victims and their families, and it sent a strong message against police brutality and extrajudicial killings.

C. FLOGGING OF MUSLIM MEN IN KHEDA

In October 2022, a deeply disturbing incident unfolded in Kheda district, Gujarat, where during the religious festival of Navratri, four police officers publicly flogged five Muslim men[73]. The victims were accused of throwing stones, which led to their public flogging by the police officers. These victims were tied to a pole and subjected to this inhumane treatment in full view of the public at Undhela village. The Gujarat High Court in this case held these policemen guilty of contempt of court for their actions.[74] As a consequence, they were sentenced to 14 days of simple imprisonment and fined Rs 2,000. The court's ruling emphasized that their behavior violated human rights and disregarded the guidelines established by the SC in the landmark DK Basu case regarding proper procedures during arrests.[75] The cases or incidents mentioned here are just a few examples that reveals a pattern of abuse of power, human rights violations, and a lack of accountability within the Indian police force. According to the 2019 Policing in India Report, three out of four police officers think it is acceptable for them to use violence against criminals. They think that using violence is a way to extract extrajudicial confessions from the accused.[76] To address this issue, it is imperative for the Indian government to implement comprehensive reforms that focus on training, oversight, and accountability mechanisms within law enforcement agencies. Moreover, there is a requirement for greater transparency and cooperation between the police and the communities they serve to build trust and ensure the protection of citizens' rights.

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[73] Sparsh Upadhyay, *Kheda Flogging Of Muslim Men: Gujarat HC Finds 4 Cops Guilty Of Contempt, Orders 14-Day Jail Term; Order Stayed For 3 Months*, LIVE LAW (Oct 19, 2023, 02:31 PM), https://www.livelaw.in/top-stories/gujarat-high-court-four-cops-guilty-contempt-14-day-jail-term-kheda-flogging-muslim-men-240561

[74] Id.

[75] Id.

[76] Harsha Roy, *Police Brutality: A Spectre That Has Haunted India For Decades*, YKA (Jan 16, 2024, 06:12 PM), https://www.youthkiawaaz.com/2020/01/on-policebrutality-a-spectre-haunting-the-nation/

IX. CHAPTER 3

A. LEGAL FRAMEWORK AND ACCOUNTABILITY

In recent years, there has been an increasing concern about the issue of police brutality in India and the lack of accountability for law enforcement officers. The legal framework in India provides certain mechanisms for holding police officers accountable for their actions, but implementation and enforcement remain major challenges. One of the key legal provisions is the Police Act of 1861, which governs the functioning of the police force in India. However, this law is outdated and does not adequately address the issue of police misconduct[77].

In addition to the Police Act, there are other relevant laws and regulations that aim to prevent and address police brutality, such as the Criminal Procedure Code and the Indian Penal Code.[78] These laws outline the responsibilities and limitations of police officers and provide a basis for holding them accountable in cases of abuse of power[79]. However, in practice, there are often barriers to the effective application of these laws, including corruption, lack of proper training, and political interference. Moreover, the lack of independent oversight and accountability mechanisms further exacerbates the problem. While there are internal disciplinary procedures within the police force, they are often criticized for being opaque and biased. Independent oversight bodies, such as the Police Complaints Authority, have been proposed to address these shortcomings, but their establishment and functioning have been slow and inadequate. This chapter will focus on examining the various National and International laws and regulations such as IPC, CrPC, Police Manuals, Police Commission Reports, UDHR, Charter of United Nations, International Covenant on Civil and Political Rights etc. It will also analyze the police accountability mechanisms such as the Human Rights Commission, Police Act, etc. available for the protection of victims from police brutality.

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[77] Ritu Bhaskar, *Police Brutality in India: Challenges and Proposed Reform*, PENACCLAIMS (2020), https://www.penacclaims.com
[78] Shaswat Adhikari, *Police Atrocities & Human Rights,* RESEARCHGATE (Mar 24, 2020, 10:14 AM), https://www.researchgate.net/publication/360929418
[79] Id.

B. NATIONAL INSTRUMENTS

- **CONSTITUTION OF INDIA**

The Constitution of India provides several articles aimed at safeguarding the rights of victims of police brutality. These include:

- **Article 21[80]:** Article 21 of the constitution guarantees the right to life and personal liberty. This right cannot be taken away except according to the procedures established by law. Because Article 21 covers a wide range of criminal jurisprudence, it is referred to be the Constitution's umbrella provision[81]. The SC has affirmed in many cases that the denial of Art 21 to convicted individuals, undertrials, and other detainees in custody is prohibited unless it is done in accordance with the legal procedures set forth, which may include preventive, incarceration, the death penalty in extremely rare circumstances.[82]
- **Article 22[83]:** Article 22 safeguards the right of victims against arbitrary arrest and imprisonment. It makes sure that no one who is arrested can be held without being made aware of the reason for their detention.[84] Additionally, this provision guarantees the right to consult with and to be represented by an advocate of one's choice.[85] This article is essential for protecting the rights of people against the violence that can be caused by police because it makes sure that they are not unlawfully arrested or detained without proper grounds.
- **Article 20 (3)[86]:** Article 20 (3) provides certain rights to those who are accused of committing a crime. It protects individuals from being forced to be a witness

[80] INDIA CONSTI. art. 21.
[81] Oviya Kumar, *The Surge of Police Brutality in India*, 30 SUPREMO AMICUS (2022), https://www.supremoamicus.org
[82] Id.
[83] INDIA CONSTI. art. 22.
[84] Koushik Chittella, *Role of Constitutional Courts in Case of Police Brutality*, Ipleaders (Jan 16, 2024, 08:48 PM), https://blog.ipleaders.in/role-of-constitutional-courts-in-cases-of-police-brutality/
[85] Id.
[86] INDIA CONSTI. art 20 cl. 3.

against themselves.[87] It ensures that the individuals cannot be forced into providing information that can incriminate them.

- **INDIAN PENAL CODE, 1860**

The provisions of IPC that safeguards the rights of victims of police brutality are as follows:

- **Section 330:** According to this section, any person who intentionally causes harm to another person in order to extort confession or to compel the restoration of a property will be liable to punishment for up to 7 years and a fine. Section 330 serves as a deterrent against abusive behavior by law enforcement officials.[88] It highlights the seriousness of using force or coercion to extract information or confessions, emphasizing the importance of respecting human rights and due process. It sets a clear standard for acceptable conduct, making it illegal for police officers or any individual to resort to violence or intimidation to achieve their objectives.
- **Section 331:** According to this section, any person who voluntarily causes grievous hurt with the intention of extracting a confession or forcing them to return a property shall be liable to punishment which can include imprisonment for up to 10 years and a fine.[89] This section serves as a deterrent against abusive behavior by law enforcement officials. It plays a crucial role in promoting accountability among police officers by prohibiting the use of force to extract confessions or information, thereby safeguarding the rights and well-being of individuals and upholding the principles of justice and fairness in law enforcement practices.
- **Section 342:** According to this section, any person who wrongfully confines any other person shall be punished with imprisonment of upto one year or fine which may extend to one thousand rupees or both. This is relevant when

[87] Koushik Chittella, *Role of Constitutional Courts in Case of Police Brutality*, Ipleaders (Jan 16, 2024, 08:48 PM), https://blog.ipleaders.in/role-of-constitutional-courts-in-cases-of-police-brutality/
[88] Oviya Kumar, *The Surge of Police Brutality in India*, 30 SUPREMO AMICUS (2022), https://www.supremoamicus.org
[89] Indian Penal Code, 1860, section 331, No 45, Act of Parliament, 1860 (India)

victims are unlawfully restrained by the police officers.[90] It establishes a legal framework that holds officers responsible for their actions. It ensures that law enforcement personnel are not above the law and must adhere to ethical standards and legal procedures in their interactions with the public. By defining the consequences for misconduct, this section helps in deterring abusive behavior and promoting transparency and integrity within the police force.

- **CODE OF CRIMINAL PROCEDURE, 1973**

The provisions of CrPC that safeguards the right of victims of police brutality are as followed:

- **Section 41D:** According to this section, a person who has been arrested has a right to meet an advocate of his choice during interrogation. However, this right cannot be used during interrogation.[91] This section serves as a safeguard against potential abuses of power during police interrogation. By granting individuals the right to meet with an advocate of their choice after arrest, it aims to ensure that individuals are not subjected to undue pressure or coercion by law enforcement officials.
- **Section 50:** According to this section, every police officer is required to inform the arrested person of the grounds for such arrest.[92] This section promotes transparency in law enforcement actions. It safeguards the fundamental rights of individuals by ensuring that they are informed of the basis for their deprivation of liberty. This knowledge allows arrested persons to exercise their rights effectively, such as seeking legal counsel and challenging the legality of their detention.
- **Section 54:** According to this section, if someone is arrested, they must be examined by a medical officer employed by the central or state government, or in case if the medical officer is unavailable, by a registered medical practitioner.

[90] Indian Penal Code, 1860, section 342, No 45, Act of Parliament, 1860 (India)
[91] Oviya Kumar, *The Surge of Police Brutality in India*, 30 SUPREMO AMICUS (2022), https://www.supremoamicus.org
[92] Code of Criminal Procedure, 1973, section 51, No 02, Act of Parliament, 1974 (India)

It further states that only a female medical officer or practitioner, or one working under a female medical officer or practitioner, shall examine the female arrestee's body.[93]

During the examination, the medical officer/practitioner is required to document any injuries or marks of violence, or any other marks found on the arrestee's body.[94] The arrestee or the person nominated by him shall receive a copy of examination report.

This examination serves as evidence of the individual's physical condition at the time of arrest, potentially revealing any abuse or misconduct by police officers. The requirement that female arrestees must be examined by a female medical officer or under the supervision of a female medical officer ensures sensitivity to gender-specific needs and concerns. This helps protect the dignity and privacy of female arrestees, reducing the risk of abuse or mistreatment during the examination process.

- **Section 55:** According to this section, it is the duty of the person incharge of the custody of the accused has an obligation to take reasonable precautions for their health and safety.[95][96]

By explicitly stating that it is the duty of the custodial officer to take reasonable precautions for the health and safety of the accused, this section emphasizes the responsibility of law enforcement personnel in ensuring the welfare of individuals in their custody. This duty includes providing access to medical care, appropriate living conditions, and protection from harm. It serves as a deterrent against the mistreatment or neglect of individuals in police custody and encourages custodial officers to uphold ethical standards and treat detainees with dignity and respect.

- **THE POLICE ACT, 1861**

The Police Act serves as a crucial legislative framework aimed at regulating the conduct of law enforcement agencies and officers.[97]

[93] Code of Criminal Procedure, 1973, section 54, No 02, Act of Parliament, 1974 (India)
[94] Oviya Kumar, *The Surge of Police Brutality in India*, 30 SUPREMO AMICUS (2022), https://www.supremoamicus.org
[95] Id.
[96] Code of Criminal Procedure, 1973, section 55, No 02, Act of Parliament, 1974 (India)
[97] The Police Act, 1861, No 05, Act of Parliament, 1861 (India)

- **Accountability Mechanism:**

One crucial aspect of the Police Act is the establishment of mechanisms for accountability to ensure that law enforcement officers are held accountable for their conduct. Internal affairs divisions, civilian oversight boards, and independent review committees are examples of organizations that investigate charges of police inappropriate conduct, including cases of brutality.

- **Training and Standards:**

The Police Act usually mandates specific training requirements and establishes guidelines for their conduct. The Act aims to decrease the risk of excessive use of force and other forms of brutality by requiring officers to get proper training in de-escalation techniques, cultural sensitivity, and human rights principles, etc.

- **Complaint Procedures:**

Victims of police brutality can submit complaints using the provisions mentioned in the Police Act. These procedures provide a formal mechanism for persons to complain about misconduct and seek reparation for any harm caused by police actions.

- **Legal Remedies**

In some cases, the Police Act may also outline legal remedies available to victims of police brutality. This can include avenues for seeking compensation, disciplinary action against offending officers, or even criminal prosecution in cases of severe misconduct. Apart from the Police Act, 1861, the state police acts and manuals also provides for conduct and accountability of police officers.

- **NATIONAL HUMAN RIGHTS COMMISSION**

The National Human Rights Commission (NHRC) plays a crucial role in providing protection to victims of police brutality through various mechanisms. It was established under the Protection of Human Rights Act, 1993. Apart from that, there are instruments to protect the citizens such as The Protection of Human Rights Act, 1993 and NHRC (Procedure) Amendment Regulations, 1997 etc. One significant action taken by the NHRC is directing compensation to victims of police torture, as evidenced by a case where Rs. 10 lakhs compensation was awarded to a victim, along

with initiating disciplinary actions against senior police officers and doctors.[98] Additionally, the NHRC ensures accountability by urging for disciplinary actions against those responsible for human rights violations, as seen in cases where senior police officers and doctors faced consequences for their actions.[99]

Furthermore, the NHRC's goals include monitoring adherence with international human rights standards relating to policing. The National Human Rights Commission emphasizes the significance of respecting human dignity, protecting human rights, and preventing law enforcement officers from torturing or treating people with cruelty.[100] This includes advocating for proper training on international standards of law enforcement and human rights, independent investigations of deaths in custody, and the use of special prosecutors in cases of police abuse.[101]

Moreover, the NHRC provides guidance and training materials on human rights standards and practices for the police. These resources are designed to help police officers understand their legal powers, respect human dignity, uphold human rights, and investigate reports of human rights violations thoroughly.[102] By promoting adherence to international human rights norms, advocating for accountability, and offering training on ethical conduct, the NHRC contributes significantly to protecting victims of police brutality and ensuring law enforcement agencies operate within the bounds of human rights principles.

- **NATIONAL POLICE COMMISSION**

In India, the National Police Commission (NPC) plays a significant part in preventing police brutality and protecting victims. The National Police Commission, which was founded in 1977, has made substantial recommendations for improving the police system, including the need for fair investigations of police complaints.[103] Despite

[98] National Human Rights Commission, India, https://nhrc.nic.in/press-release/nhrc-directs-rs-10-lakhs-compensation-victim-police-torture-disciplinary-actions-be/
[99] Id.
[100] *Shielded From Justice: Police Brutality and Accountability in the United States*, HUMAN RIGHTS WATCH (Jan 17, 2024, 12:36 PM), https://www.hrw.org/legacy/reports98/police/uspo38.html
[101] Id.
[102] *Human Rights Standards and Practice for the Police*, UNITED NATIONS (2004)
[103] *Some Selected Recommendations of the National Police Commission*, THE NATIONAL POLICE COMMISSION (NPC) (Jan 17, 2024, 01:31 PM), https:/www.humanrightsinitiative.org

problems such as longer trials and low conviction rates in India's criminal justice system, the NHRC's interventions seek to hold individuals accountable for human rights breaches. The NPC has recommended various reforms to enhance police accountability and efficiency. These include creating Central IPS Cadres, implementing the Police Commissionerate System in major cities for effective policing, and setting up special investigating squads during communal riots to ensure impartial investigations and prosecutions.[104] Additionally, the NPC emphasizes the importance of separating investigating staff from law-and-order staff to improve transparency and prevent abuse within the police force.[105]

C. INTERNATIONAL INSTRUMENTS

- **CHARTER OF THE UNITED NATIONS, 1945**

The United Nations Charter 1945 plays an important role in safeguarding the human rights of individuals because of its commitment to fundamental human rights and social progress. The Charter stresses the dignity and worth of all people, regardless of their race, gender, language, or religion.[106] It aims to maintain international peace and security while promoting respect for human rights and fundamental freedoms for all. Additionally, the Charter encourages member states to settle international disputes peacefully to safeguard justice and security.[107]

Furthermore, the United Nations, under the Charter, has mechanisms in place to address threats to peace and breaches of peace, which can include situations like police brutality.[108] The UN's focus on human rights protection extends to addressing abuses against women, including violence, which is a widespread violation of human rights globally.[109] The organization works through various bodies like the

[104] Id.
[105] Id.
[106] Charter of United Nations, 1945
[107] Id.
[108] Charter of United Nations 1945, Chapter VII
[109] *The Role of United Nations in the Promotion and Protection of Human Rights*, BUREAU OF INTERNATIONAL ORGANIZATION AFFAIRS (1997), https://1997-2001.state.gov/issues/un_human_rights.html

Commission on Human Rights to ensure universal recognition of human rights for all individuals.[110]

- **UNIVERSAL DECLARATION OF HUMAN RIGHTS, 1948**

The Universal Declaration of Human Rights (UDHR) of 1948 protects victims of police brutality by highlighting fundamental rights and principles. Article 5 of the Universal Declaration of Human Rights states, "No one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment." It establishes a standard against police abuse and cruelty. Furthermore, it ensures that victims, especially those subjected to police brutality, are handled with compassion, respect, and dignity. Victims are entitled to access justice mechanisms and receive speedy compensation for the harm they suffered.[111]

- **INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, 1966**

The International Covenant on Civil and Political Rights (ICCPR) guarantees that any individual whose rights are violated, even by officials, has a right to an appropriate remedy determined by the competent authorities.[112] This Covenant requires States Parties to enact legislation or take other measures to protect the rights recognized in it, as well as to enforce remedies when provided.[113] Furthermore, people can submit communications claiming violations of their rights under the Covenant to the Committee for consideration through the Optional Protocol to the ICCPR.[114] ICCPR is a significant international treaty, which mandates that countries uphold civil and political rights, such as the freedoms of expression, of religion, of assembly, and of due process.[115]

[110] Id.
[111] Universal Declaration of Human Rights, 1948
[112] International Covenant on Civil and Political Rights, 1966
[113] Id.
[114] Anne Bayefsky, *How to Complain to the UN Human Rights Treaty System,* BRILL (2002), https://brill.com/display/title/8992
[115] Id.

- **INTERNATIONAL CONVENTION ON ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION, 1965**

According to the International Convention on the Elimination of All Forms of Racial Discrimination, 1965 Racial discrimination means as any distinction, exclusion, restriction, or preference based on race, color, descent, or national or ethnic origin.[116] It highlights the fundamental principle that all humans are equal, free, and endowed with the same rights and dignity.[117] Additionally, States Parties are obligated to adopt speedy and effective measures in teaching, education, culture, to combat biases leading to racial discrimination and promote understanding among nations and ethnic groups.[118] India has shown that it is committed to eradicating discrimination of all forms as a State Party to this Convention. The Indian Constitution prohibits discrimination on a number of grounds, including race, and affirmative action policies have been put in place to address discrimination.[119] People can file complaints about human rights violations in India using channels like human rights commissions and the legal system.[120]

- **CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMANE, OR DEGRADING TREATMENT OR PUNISHMENT, 1987**

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, established in 1984 and put into effect in 1987, plays a pivotal role in safeguarding the rights of victims who have suffered from police brutality. This convention mandates that each participating nation ensures that victims of torture receive fair treatment and the right to seek redress.[121] It defines torture as the deliberate infliction of severe physical or mental suffering by public officials for

[116] *Racism*, Wikipedia (Jan 17, 2024, 06:47 PM), https://www.en.wikipedia.org/wiki/Racism
[117] Id.
[118] Id.
[119] *Committee on Elimination of Racial Discrimination Considers Report of India*, UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER (2007), https://www.ohchr.org/en/press-releases/2009/10/committee-elimination-racial-discrimination-considers-report-india
[120] *Id.*
[121] Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1987

various purposes, excluding pain resulting from lawful sanctions.[122] States are bound to prevent torture under all circumstances, with no exceptions for war or emergencies.[123] Additionally, victims of torture have the right to seek compensation and redress, and their statements made under duress are not admissible as evidence.[124]

The Convention establishes a Committee against Torture responsible for overseeing its implementation and examining reports from States parties.[125] Additionally, an Optional Protocol was adopted to allow regular visits to places of detention to prevent inhuman treatment.[126] Moreover, international and national laws prohibit torture and cruel treatment, ensuring equal protection for all individuals, including those with disabilities. This comprehensive legal framework underscores the global commitment to eradicating torture and upholding human dignity.

X. CHAPTER 4

A. ADVOCACY AND ACTIVISM

Citizens in India have been actively advocating against police brutality, facing significant challenges in their efforts. The National Human Rights Commission reported at least 194 deaths in police custody since 2019, highlighting the daily reality of police violence in India.[127] Despite this, a study found that nearly half of Indians polled in 2018 saw nothing wrong with police violence towards criminals.[128] Recent protests in various states like Uttar Pradesh, Jharkhand, and Maharashtra called for justice and the release of individuals arrested for peaceful expression.[129] These

[122] Archa Baburaj, *Can International Human Rights Instruments Prevent Police Torture in Kerala?*, FACULTY OF LAW, LUND UNIVERSITY (2022) https://lup.lub.lu.se/luur/
[123] Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1987
[124] Ralph Crawshaw, Stuart Cullen & Tom Williamson, *Human Rights and Policing*, BRILL (2007), https://brill.com/display/title/13169
[125] *Id* at 120.
[126] *The Legal Prohibition Against Torture*, HUMAN RIGHTS WATCH (Jan 17 2024, 07:06 PM), https://www.hrw.org/news/2003/03/11/legal-prohibition-against-torture
[127] Mohit Rao, *Indian Police Use Violence as a Shortcut to Justice. It's the Poorest Who Bear the Scars*, CNN (Apr 12, 2020, 2:32 PM), https://edition.cnn.com/2020/12/02/india/police-brutality-india-dst-intl-hnk/index.html
[128] *Id.*
[129] Aakar Patel, *India: Excessive Use of Force, Arbitrary Detention and Punitive Measures Against Protesters Must End Immediately*, AMNESTY INTERNATIONAL (2022),

protests were met with excessive force, arbitrary detentions, and punitive measures by authorities, violating human rights standards.[130]

- **JUSTICE FOR ROHITH VEMULA MOVEMENT**

After Rohith Vemula's tragic suicide on January 17, 2016, a movement for justice for him arose in India. Rohith Vemula, a Dalit scholar at the University of Hyderabad, died as a result of discriminatory treatment and harassment. Indian citizens protested against police brutality and the systemic issues that led to Rohith's suicide. Many viewed his death as an "institutional murder," resulting in widespread protests and outrage across the country. The movement highlighted the issues of caste discrimination and the struggles faced by marginalized communities in India. It brought attention to the need for justice, accountability, and reforms within educational institutions and society as a whole. Rohith's case shed light on the challenges faced by Dalit individuals and the importance of addressing caste-based discrimination.

The lack of support from authorities is a pervasive issue that affects marginalized communities' ability to seek redress for the injustices they face. In Rohith's case, the university administration's denial of his stipend and suspension from his academic program following a complaint by a right-wing student organization illustrates this challenge. The absence of support from authorities can exacerbate the struggles faced by marginalized individuals, creating significant barriers to their education, well-being, and access to justice.

- **#METOOURBANNAXAL**

The movement of #MeTooUrbanNaxal in India emerged as a response to police brutality and the arrest of activists. This movement gained traction on social media platforms like Twitter following the arrest of left-leaning intellectuals by the Pune

https://www.amnesty.org/en/latest/news/2022/06/india-excessive-use-of-force-arbitrary-detention-and-punitive-measures-against-protesters-must-end-immediately/

[130] *Id.*

Police in connection with the Goregaon Bhima violence.[131] The arrests were seen as part of a broader crackdown on dissenting voices, raising concerns about threats to democracy in India.[132] The hashtag #MeTooUrbanNaxal symbolized a moment of solidarity and resistance against the targeting of activists and intellectuals by authorities.[133]

The #MeTooUrbanNaxal and Justice for Rohith Vemula movements are examples of advocacy efforts that aim to address these challenges and promote justice and accountability. However, the lack of support from authorities and the fear of retaliation can hinder the progress of these movements, making it crucial to address these challenges to ensure the effectiveness of advocacy efforts. This significantly impact the effectiveness of advocacy efforts against the issue of police brutality. Addressing these challenges is essential to promoting justice, accountability, and reforms within educational institutions and society as a whole, ensuring that every citizen has equal access to opportunities and resources, and that their rights and well-being are protected and upheld.

B. ROLE OF MEDIA AND PUBLIC PERCEPTION

The media plays a crucial role in shaping public sentiment, raising awareness, monitoring law enforcement, covering legal proceedings, and influencing policy related to cases of police brutality. Research indicates that media coverage of police brutality significantly impacts public discourse and sentiment towards law enforcement.

- **SHAPING PUBLIC SENTIMENT:**

Media reports of police brutality have a substantial influence on public sentiment towards the police, with negative coverage having a more pronounced effect than

[131] Nidhi Sethi, #*MeTooUrbanNaxal Trends on Twitter After Activists Raided, Arrested*, NDTV (Nov 15, 2018, 1:24 PM), https://www.ndtv.com/india-news/metoourbannaxal-trends-on-twitter-after-activists-raided-arrested-1908107
[132] Tekendra Parmar, *Modi's McCarthyist Attack on Left-Leaning Intellectuals Threatens India's Democracy*, WAGING NON-VIOLENCE (Jan 19, 2024, 05:34 PM), https://wagingnonviolence.org/2018/09/modis-mccarthyist-attack-on-left-leaning-intellectuals-threatens-indias-democracy/
[133] *Id.*

positive news. Instances of police misconduct reported by the media can shape public opinion and lead to increased scrutiny of law enforcement practices.

- **RAISING AWARENESS AND MOBILISING SUPPORT:**

Increased media coverage of police brutality can amplify awareness and mobilize support for social movements like "Justice for Rohith Vemula," which advocate for police reform in response to the violence caused by the police. Social media platforms have become instrumental in disseminating images and videos of police violence, fueling public outrage and calls for justice.

- **MONITORING LAW ENFORCEMENT:**

Media scrutiny, especially through platforms like YouTube, has exposed instances of police misconduct and excessive use of force, leading to greater public scrutiny of law enforcement practices. The rise in media coverage has heightened awareness about unfair police practices and their impact on public perceptions of policing outcomes. The media's role in covering cases of police brutality is multifaceted, ranging from shaping public sentiment to influencing policy decisions. Through its reporting, the media serves as a critical watchdog, shedding light on instances of misconduct, raising awareness, and fostering accountability within law enforcement agencies.

C. ROLE OF SOCIAL MEDIA AND TECHNOLOGY

Social media and technological advancements have significantly influenced the public perception of police in India by enabling real-time reporting, organizing protests, crowdsourcing, and fundraising for the aggrieved. The Indian police have recognized the importance of social media platforms like Facebook to engage citizens in policing efforts.[134] By leveraging online social networks, police agencies in India can gather intelligence, connect with citizens, and monitor public opinion to address law enforcement challenges effectively.[135]

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[134] Niharika Sachdeva & Ponnurangam Kumaraguru, *Online Social Networks and Police in India-Understanding the Perceptions, Behavior, Challenges*, RESEARCHGATE (2015), https://www.researchgate.net/publication/300117090_Online_Social_Networks_and_Police_in_India-Understanding_the_Perceptions_Behavior_Challenges

[135] *Id.*

Studies have highlighted the multidimensional impact of online social media on policing in India, shedding light on behavior, perceptions, interactions, and expectations regarding law enforcement through these platforms.[136] Furthermore, recent research indicates that police communication on social media is evolving towards a more corporate approach, emphasizing the importance of effective online practices for law enforcement agencies.[137]

[136] *Id.*

[137] Liam Ralph & Paul Robinson, *Assessing Police Social Media Practices Through a Democratic Policing Lens*, 25 (3) SAGE JOURNALS (2023), https://journals.sagepub.com/doi/10.1177/14613557231169391?icid=int.sj-abstract.citing-articles.

XI. CHAPTER 5

A. IMPLICATIONS FOR LAW ENFORCEMENT AGENCIES

Law enforcement agencies face significant implications when reviewing and amending their processes, particularly concerning reputation and increased scrutiny. The process of evaluating and updating procedures can have a profound impact on how these agencies are perceived by the public and how closely they are scrutinized. Law enforcement agencies must carefully manage their reputation during the review and amendment process. Any changes made should be communicated transparently to maintain public trust. Agencies need to ensure that their actions align with legal standards and community expectations to uphold their reputation.

The review and amendment of law enforcement practices often lead to heightened scrutiny from various stakeholders, including the media, the public, and oversight bodies. This scrutiny can focus on the effectiveness of the changes made, adherence to legal requirements, and overall accountability. The involvement of civilian oversight bodies is crucial in ensuring accountability and transparency within law enforcement agencies. These external mechanisms play a vital role in monitoring police conduct, investigating complaints, and recommending disciplinary actions.

B. CHALLENGES IN IMPLEMENTING POLICY CHANGES

Implementing policy changes within law enforcement agencies is a complex process fraught with challenges that can hinder successful outcomes. It includes:

- **RESISTANCE WITHIN LAW ENFORCEMENT AGENCIES:**

Law enforcement professionals often exhibit resistance to change, particularly officers accustomed to existing practices.[138] Overcoming this resistance requires effective communication tailored to specific segments within the department and active engagement with officers at all levels.[139] Officers play a crucial role in either facilitating

[138] *The Change We Need: 5 Issues That Should be Part of Efforts to Reform Policing in Local Communities*, ADVANCEMENT PROJECT (Feb 02, 2024, 06:54 PM), https://advancementproject.org/the-change-we-need-5-issues-that-should-be-part-of-efforts-to-reform-policing-in-local-communities/
[139] *Id.*

or impeding change implementation, emphasizing the need for leadership to inspire, influence, and engage personnel effectively.[140]

- **POLITICAL INTERFERENCE:**

Political influences can complicate the implementation of policy changes within law enforcement agencies. Political pressures may conflict with the intended reforms, leading to delays or modifications that deviate from the original objectives. Maintaining independence from political interference is essential for ensuring that policy changes are implemented effectively and in alignment with the agency's goals and community expectations.

- **COMPLEX LEGAL FRAMEWORK:**

Law enforcement agencies operate within a complex legal framework that adds layers of intricacy to policy changes. Adhering to local, state, and federal laws while implementing reforms requires meticulous attention to detail and legal compliance. Developing policies that align with legal requirements and best practices is crucial for navigating the intricate legal landscape surrounding law enforcement operations. Addressing these challenges demands strategic planning, effective communication strategies tailored to different stakeholders, proactive engagement with officers and community members, and a commitment to upholding legal standards. By recognizing and actively mitigating these obstacles, law enforcement agencies can enhance their capacity to implement policy changes successfully while fostering trust, accountability, and transparency within their communities.

C. CONCLUSION

In conclusion, this Paper has shed light on the widespread issue of police brutality tracing its roots to colonial policing practices and highlighting various forms of misconduct and mistreatment by law enforcement officers towards individuals or communities. It explores instances of police brutality, infringement of human rights, and the impact on individuals, citing cases like D.K. Basu vs State of West Bengal,

[140] *Overcoming 3 Key Challenges to Change Management in Policing*, Police1 (Feb 02, 2024, 07:03 PM), https://www.police1.com/police-jobs-and-careers/articles/overcoming-3-key-challenges-to-change-management-in-policing-1aDtsSirapaAvBCY/

Jawaharlal Nehru University Protests, Tuticorin Custodial Death, Pilibhit Encounter, among others. Through an in-depth analysis of these case studies and statistical data, it has become evident that police brutality not only undermines the fundamental rights of individuals but also erodes trust in law enforcement agencies. The psychological and emotional trauma experienced by victims of police brutality serves as a stark reminder of the urgent need for comprehensive reforms within police departments.

Furthermore, the findings of this paper underscore the importance of accountability and oversight mechanisms to prevent and address instances of police brutality. Efforts to combat police brutality in India face obstacles such as inadequate resources in state human rights commissions, leading to limited actions against abusive officers. The need for comprehensive police reform is highlighted, focusing on increasing accountability for abusive behavior, improving working conditions for officers, enhancing training programs, and restructuring the police hierarchy to handle investigational work more efficiently. By addressing these systemic issues and implementing the recommendations by the National Police Commission, Human Rights Commissions etc, steps can be taken towards protecting victims of police brutality and ensuring accountability within the Indian law enforcement system. It is imperative for law enforcement agencies to prioritize the protection of individuals' rights and ensure that officers adhere to ethical standards and proper use of force protocols. Only through these measures can we begin to rebuild trust and create a safer and more just society for all.

As I conclude, it is evident that addressing the issue of police brutality requires a concerted effort from policymakers, law enforcement agencies, and the community. By working together to implement structural reforms and foster a culture of accountability, we can strive towards a future where every individual's rights are respected and protected, free from the fear of unjust treatment by those entrusted to uphold the law.

D. SUGGESTIONS

According to research, race and ethnicity have a major influence on the likelihood for experiencing police brutality. Marginalized communities, such as racial and ethnic minorities, are disproportionately affected, creating a sense of discrimination, fear, and mistrust in law enforcement. The solution is to strengthen laws to ensure that victims receive prompt justice, enhance whistleblower protection, and establish independent review boards to investigate complaints against the law enforcement. Police brutality undermines trust in law enforcement and hinders community cohesion. It causes heightened stress, fear, and hatred in society, impeding crime prevention efforts and police cooperation. The solution is to promote community policing approaches that value connection development over enforcement. Increase transparency in law enforcement practices to boost public trust.

Victims of police violence suffer both short- and long-term physical injuries, as well as psychological distress. These consequences can vary from bodily harm (injuries and trauma) to long-term mental health concerns (anxiety, PTSD, depression). They frequently face intimidation, retaliation, or a lack of support when seeking justice, highlighting the importance of strong safeguards to protect their rights and well-being. The solution is to offer full support services to victims, including mental health treatment. Conduct regular assessments of the victims' well-being. Authorities can create a supportive environment for victims and witnesses to come forward without fear of retaliation by implementing measures such as confidential reporting mechanisms, access to legal assistance, and psychological counseling services.

Incorporating comprehensive training programs that prioritize de-escalation techniques and conflict resolution skills critical to reducing incidences of police brutality. Officers should be equipped with non-violent approaches to handling challenging situations. De-escalation training, community involvement techniques, and updated policies can all help to create a more accountable and transparent police system.

Incorporating cultural competency and implicit bias training into police academies and continuing professional development programs will help officers identify and

control their biases, thus facilitating fair and equitable treatment for all individuals. Different countries take different approaches to the issue of police violence. Learning from international methods can provide important insights into effective strategies for preventing and dealing with police misconduct. To solve this issue, I propose that we look at successful tactics used in other nations to combat police violence. Form partnerships with international groups to share best practices. Implement improvements based on global norms to increase accountability and transparency.

In addition to this, it is crucial to review and amend the existing laws to bring them into compliance with international human rights standards. This includes ensuring that legislation governing police conduct is clear, consistent, and in line with established human rights principles. These legal reforms, by incorporating provisions that uphold fundamental rights such as the right to life, freedom from torture, and the right to a fair trial, can serve as a strong framework for preventing abusive practices by police officers.

Cultural competency training is another critical component aimed at preventing police brutality. Law enforcement officers must possess a deep understanding of diverse cultures, beliefs, and backgrounds to effectively interact with communities they serve. By providing training on procedural justice principles to both officers and supervisors and training on cultural sensitivity, implicit bias awareness, will emphasize fairness, transparency, and respect for the rights and dignity of individuals involved in police encounters and mitigate potential conflicts arising from misunderstandings or prejudices. Apart from this, establishing oversight mechanisms by bodies such as the Human Rights Commission can help hold law enforcement agencies accountable for their actions. Independent oversight bodies can investigate allegations of police misconduct, monitor compliance with human rights standards, and recommend corrective action to prevent future abuses. These oversight mechanisms, which promote transparency, accountability, and adherence to best practices, serve as a vital check on the power of law enforcement agencies and contribute to the development of trust between police and the communities they

serve.[141] Furthermore, enabling the use of body-worn cameras and dashcams by law-enforcement officials would enhance accountability and give evidence that is reliable in cases of alleged misconduct. Moreover, there is also a need of Implementation of regular performance evaluations for officers, including assessments of their adherence to departmental policies, use-of-force incidents, and interactions with the community and Tie promotions and incentives to demonstrated professionalism and adherence to standards.

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